

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JEANINE DE LA VERRIERE, *on behalf of herself* :
and others similarly situated in the proposed FLSA : No.: 1:22-CV-5700 (PAE-SLC)
Collective Action, :
 :
Plaintiff, : **ORAL ARGUMENT REQUESTED**
 :
- *against* - :
 :
ELYMAR RESTAURANT CORPORATION, :
ELYANE VASCHETTA (a/k/a ELYANE :
BRUNO), and WILLIAM WELLES, :
 :
Defendants. :
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**NOTICE OF MOTION TO DISMISS THE AMENDED COMPLAINT OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS**

PLEASE TAKE NOTICE THAT, upon Defendants’ Memorandum of Law in Support of Defendants’ Motion to Dismiss the Amended Complaint or for Summary Judgment Dismissing the Amended Complaint, as barred by the Statute of Limitations, the Declaration of Eric M. Kutner and the exhibits annexed thereto, the Declaration of Elyane Vaschetta, the Declaration of Ryan W. Lawler and the exhibit annexed thereto, and upon all pleadings and prior proceedings hereto, Defendants Elymar Restaurant Corporation, Elyane Vaschetta (a/k/a Elyane Bruno), and William Welles (collectively, the “Defendants”), will move this Court, before the Honorable J. Paul Engelmayer, in Courtroom 1305 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, at such time, date, and place as decreed by the Court, for an order dismissing Plaintiff’s Amended Complaint (Dkt. No. 14) pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6) for lack of jurisdiction and failure to state a claim upon which relief may be granted, or, in the alternative, for an order granting Defendants summary judgment under Fed. R. Civ. P. 56.

Pursuant to Local Civil Rule 6.1, Plaintiff shall serve papers in opposition to this motion on or before November 14, 2022.

Defendants shall serve papers in reply to such opposition, if any, on or before November 16, 2022.

Dated: New York, New York
October 26, 2022

Respectfully submitted,

MINTZ & GOLD LLP

/s/ Ryan W. Lawler

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